

New Hampshire Democratic Party
105 North State Street
Concord, NH 03301

December 1, 2010

Christopher Hughey, Esq.
Acting General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

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OFFICE OF GENERAL
COUNSEL

MUR # 6440

Re: Complaint against Frank Guinta and Friends of Frank Guinta

Dear Mr. Hughey,

I write this letter to file a complaint pursuant to 2 U.S.C. § 437g(a)(1) against Frank Guinta, a candidate for the 1st Congressional District in the state of New Hampshire, and his principal campaign committee, Friends of Frank Guinta (the "Committee") (collectively referred to as the "Respondents"). Although reports filed with the Commission indicate substantial loans and contributions made by Mr. Guinta to the Committee between June 2009 and September 2010, the candidate's original financial disclosure statement does not reflect the assets or income necessary to support that level of investment. If Mr. Guinta has used resources other than his own personal funds to make contributions or loans to the campaign, then he and the Committee have acted in violation of the Federal Election Campaign Act of 1971 (the "Act").

THE FACTS

The record demonstrates that Frank Guinta loaned his campaign committee \$245,000 in personal funds and contributed an additional \$110,000 to the Committee. Three separate loans totaling \$245,000 were made to the Committee on June 30, 2009, March 28, 2010, and June 27, 2010, and subsequently reported as loans from the candidate on line 13a of the Committee's reports. The loans were also reported on Schedule C, where the source of the loan is identified as the candidate's "personal funds." On September 3, 2010 and September 10, 2010, Mr. Guinta made two contributions to the Committee totaling an additional \$110,000.

Pursuant to the Ethics in Government Act, Mr. Guinta filed a financial disclosure statement with the Clerk of the U.S. House of Representatives on May 15, 2010. He filed an amended statement with the Clerk on July 23, 2010. The statute requires that the filer disclose the source, type and amount of earned and unearned income received during the year of filing and the preceding calendar year as well as the "identity and category of value of any interest in property held ... in a trade or business, or for investment or the production of income." See 5 U.S.C. app. 4, §102. Interest-bearing checking or savings accounts held by the filer must be disclosed if the total value exceeds \$5,000 as of the end of the reporting period. See Committee on Standards of Official Conduct, U.S. House of Representatives, *Instruction Guide for Completing Financial Disclosure Statement Form B II-12 (2009)* ("PFD Candidate Instruction Guide"). Assets on a candidate's statement must be disclosed and valued as of a date within 30 days before the date of filing. See *id.* at 4.

Mr. Guinta's original statement disclosed three bank accounts with assets totaling between \$17,000 and \$80,000, an annual salary of \$72,000 from the City of Manchester, and various stocks and mutual funds. When asked about the source of Mr. Guinta's loans to the Committee, Mr. Guinta amended his original statement to include an additional bank account with assets totaling between \$250,001 and \$500,000. The

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original financial disclosure statement filed by Mr. Guinta simply did not reflect the income or assets that would have permitted him to make such a significant investment of personal funds to his campaign. Although the bank account added to his amended report would support such an investment, Mr. Guinta has offered no reasonable explanation for failing to disclose such a substantial asset on his original report. Furthermore, neither Mr. Guinta's stated income as neither a city official nor the financial disclosure statements filed with the City of Manchester in connection with his locally held positions are consistent with a forgotten account valued at more than \$250,000.

ARGUMENT

The Act and Commission regulations permit federal candidates to make "unlimited expenditures from personal funds." See 11 C.F.R. § 110.10. The "personal funds of a candidate" are defined to include amounts derived from any asset that the candidate had "legal right of access to or control over" and with respect to which the candidate had "legal and rightful title" or an "equitable interest." Personal funds also include any income received by the candidate during the current election cycle, including income from a salary and other earned income, income from the candidate's stocks or investments, bequests to the candidate, income from trusts, and gifts of a personal nature that had been customarily received by the candidate prior to candidacy. See 2 U.S.C. 431(26); 11 C.F.R. § 100.33.

The Act further prohibits any person, including a candidate, from making or accepting contribution in the name of another. See 2 U.S.C. § 441f.

Here, the Committee's reports indicate that Mr. Guinta loaned and contributed to his campaign an aggregate amount of \$355,000 between June 30, 2009 and September 10, 2010. Yet, according to his original financial disclosure statement, Mr. Guinta earned an annual salary of \$72,000 and had three bank accounts totaling not more than \$80,000 in value. Although Mr. Guinta responded to inquiries about the source of his campaign loans by claiming a previously undisclosed bank account valued at more than \$250,000, he has offered no reasonable explanation for the alleged oversight - and has thus far refused to release bank account statements to verify the amended statement.

If Mr. Guinta did not have the personal funds necessary to contribute or loan \$355,000 to his campaign, then he and the Committee have acted in violation of the Act. For this reason, I respectfully request that the Commission investigate immediately the contributions and loans attributed to Mr. Guinta.

Sincerely,


Michael D Brunelle
Executive Director, New Hampshire Democratic Party

SUBSCRIBED AND SWORN to before me this 1st day of December, 2010.


Notary Public

My Commission expires:

March 10, 2015

RYAN P. MAHONEY, Notary Public
My Commission Expires March 10, 2015